S.B. CIVIL MISC. APPEAL NO.946/2006.
(Smt. Mangli @ Gyani Bai & Ors. Vs. Babu Bhai & Ors)

Date of Order :: 19.09.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Pradeep Shah, for the appellants.

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Having heard learned counsel for the appellants and having examined the record, this Court is satisfied that the award made by the Tribunal in the sum of Rs.2,76,000/- in favour of the claimants-appellants remains that of just compensation and there is no scope for enhancement.

For quantifying compensation for the claimants, wife, two minor children and mother of the vehicular accident victim Poonja (40 years), in the absence of any cogent evidence regarding his income, the Tribunal has put the estimate of income at Rs.2,100/- per month and after deducting one-third on the personal expenditure of the deceased and applying a multiplier of 15, has assessed pecuniary loss at Rs.2,52,000/- and has added Rs.2,000/- towards funeral expenses, Rs.1,000/- towards loss of estate, Rs.20,000/- towards non-pecuniary loss and Rs.1,000/- towards transportation to make an award in the sum of Rs.2,76,000/- and has allowed interest @ 6% per annum from the date of filing of the claim application.

The claimants have alleged the income of the deceased Poonja at Rs.4,500/- per month while working as a mason with a stones supplier and further Rs.1,500/- per month from agriculture. There is no evidence available on record to accept separate component of agriculture income of the deceased. A certificate Ex.14 has been relied upon by the claimants to prove monthly income of the deceased at Rs.4,500/- at the stones godown. The said certificate has been issued on a letter-head of Kesariyaji Stone Suppliers stating that the deceased was working as mason with them and was paid Rs.4,500/- per month from 20.09.2004 to 31.03.2005. Neither the author of the said certificate has been produced in evidence nor any corroborative evidence has been placed on record in the form of accounts, receipts etc. The Tribunal cannot be said to be in error in refusing to rely upon such certificate that carries no probative value. Noteworthy it is that in the FIR relating to the incident (Ex.1) lodged by the driver of the tractor the deceased was riding at, it has been pointed out that the deceased Poonja was accompanying the tractor carrying earth as a labourer and was sitting near the trolley when a punctured wheel was being changed and was hit by the offending jeep.

In the overall circumstances, the Tribunal cannot be faulted in assessing the income of the deceased as a labourer at Rs.2,100/- per month. The Tribunal has reasonably applied the multiplier of 15 to a multiplicand of Rs.16,800/- and has further

reasonably allowed other losses. The award in its totality remains that of just compensation and cannot be said to be too low or grossly inadequate so as to warrant interference in appeal.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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